

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

MARY EWING, )  
 )  
 Plaintiff, )  
 )  
 v. ) No. 4:07CV1066 HEA  
 )  
 )  
 FRESH IDEAL/MORE SOURCE, )  
 )  
 )  
 Defendant. )

**MEMORANDUM AND ORDER**

This matter is before the Court on plaintiff's motion to proceed in forma pauperis. Upon consideration of the financial information in the complaint, the Court finds that plaintiff cannot afford to pay the filing fee, and the motion will be granted.

Because plaintiff is proceeding in forma pauperis, the Court is required to review the complaint under 28 U.S.C. § 1915(e) and to dismiss it if the action is frivolous, malicious, or fails to state a claim upon which relief can be granted.

Plaintiff brings this action under Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e- 2000e-5, for alleged racial discrimination. To state a claim upon which relief can be granted under Title VII, plaintiff is required to present a prima facie case of race discrimination: that she is a member of a protected class, that she was qualified for the position, and that despite her qualification she was displaced from the

position. *E.g., Ruby v. Springfield R-12 Public School Dist.*, 76 F.3d 909, 911 (8th Cir. 1996).

Plaintiff has alleged that she is a member of a protected class, but she has failed to allege that she was qualified for the position from which she was displaced. As a result, she has failed to state a prima facie case of race discrimination under Title VII and, therefore, she has failed to state a claim upon which relief can be granted and this case is subject to dismissal under 28 U.S.C. § 1915(e).

Because plaintiff is proceeding pro se, the Court finds that plaintiff should be allowed the opportunity to file an amended complaint within 30 days of the date of this Order. If plaintiff fails to timely file an amended complaint, this case shall be dismissed without prejudice.

Accordingly,

**IT IS HEREBY ORDERED** that plaintiff's motion to proceed in forma pauperis [#2] is **GRANTED**.

**IT IS FURTHER ORDERED** that plaintiff shall file an amended complaint within 30 days of the date of this Order. If plaintiff fails to timely file an amended complaint, this case shall be dismissed without prejudice.

**IT IS FURTHER ORDERED** that the Clerk shall not issue process or cause process to issue at this time because the Court has ordered plaintiff to file an amended complaint.

Dated this 6th Day of June, 2007.



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HENRY EDWARD AUTREY  
UNITED STATES DISTRICT JUDGE